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MEMORANDUM

TO: RHCF Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst

DATE: April 10, 2009

SUBJECT: **2009 Medicaid Rate Appeals**

ROUTE TO: Administrator, CFO

**IMPORTANT
TIME SENSITIVE
MATERIAL**

ABSTRACT: DOH issues new 2009 Medicaid rate appeal instructions.

Introduction

Yesterday, the Department of Health (DOH) issued its first guidance on nursing home Medicaid rate changes stemming from the recently passed 2009-10 state budget (please refer to NYAHS memos [Doc. ID # N00003357](#) and [Doc. ID # N00003322](#) for state budget details). The provisions in the budget related to nursing home Medicaid rates have generated many questions. DOH communicated its guidance in a direct e-mail message to providers. Members who have not already seen it should look for the e-mail from DOH (subject heading: “2009 Rate Setting Updates for Nursing Homes”). For member convenience a copy of the information is also available by [clicking here](#).

Changes to 2009 Medicaid Rate Appeals

[NYAHS Doc. ID # N00003358](#) reminds members regarding the April 15, 2009 deadline for submitting hotline appeals for the initial 2009 rates issued in December 2008 and the electronic appeals submission (EAS) requirement. We cautioned in that memo that this is a fluid situation and that members should be expecting changes relative to the impact of the recently enacted budget. Although somewhat unclear in its language, yesterday’s guidance from DOH does change the appeals process for 2009. Based upon direct consultation with DOH, NYAHS was able to obtain additional clarifications as follows:

- The EAS requirement remains in place. However, NYAHSa has confirmed with DOH that most hospital-based nursing homes must still submit using paper forms. Therefore, the new EAS requirement does not apply to hospital-based RHCF-2 filers;
- DOH will be implementing the more restrictive appeals review standard passed with the state budget, which states:

Notwithstanding any inconsistent provision of law or regulation, as of April first, two thousand nine, with regard to administrative rate appeals, the department will only review such appeals for (a) the correction of computational errors or omissions of data by the department in determining the operating rate based upon the information provided to the department prior to the computation of the rate, (b) capital cost reimbursement, or (c) such reasons as the commissioner determines are appropriate. The department will no longer consider any revisions made to a facility's annual cost report for operating rate adjustment purpose later than the due date established by the commissioner;

- As members are aware, we are dealing with two sets of rates for calendar year 2009. The first quarter of the year is still being paid based on an extension of the 12/31/08 operating rate with a 1983 base year. New first quarter rates will be issued and members will have **30 days** from the date of issuance to file an appeal for any operating component issues;
- As of April 1st, the new 2002 base year rate is being implemented for the remainder of the calendar year. As a result, the April 15th deadline is no longer relevant to the filing of operating component rate appeals. The rates effective for April 1st will have to be issued and providers will have **120 days** to file any operating component appeals;
- Capital appeals that were not submitted by the original January 15, 2009 deadline must be submitted **by April 15, 2009** and will apply to the full 12 months of 2009; and
- Revised 2002 cost reports must be submitted **by April 15, 2009** in order to be considered for the 2002 base year rate calculation. DOH has assured NYAHSa that any revised 2002 cost reports submitted by the 15th will be used to calculate a facility's new 2002 base year rate.

Again, any appeal or revised cost report submissions must be done through the EAS, except for hospital based RHCF 2 filers.

Please contact me with any questions at pcucinelli@nyahsa.org or call 518-449-2707 ext. 145.